

a memory coupled to the control system and storing a plurality of data sets for producing respective types of the thematic game artwork, the types of the thematic game artwork having different themes, the control system selecting one of the data sets primarily in response to the control system monitoring a time signal corresponding to a predetermined time.

REMARKS

Claims 1-26, 29-39, 46-55 and 87-98 remain in the application for prosecution. Claims 27 and 28 have been cancelled. Claims 26, 30, 32, 33, 37, 46, 49, 54 and 55 have been amended. Claims 94-98 have been added. Submitted herewith is a clean set of pending claims. Also submitted herewith is a clean Abstract.

Specification

The Office Action objected to the Abstract because the abstract has more than 150 words. The Abstract has been shortened to less than 150 words.

Claim Rejections – 35 U.S.C. §§ 102 and 103

Claims 26-28, 32-35 and 37-39 were rejected under 35 U.S.C. § 102(b) as being anticipated by Liverance '399 ("Liverance"). Claims 46, 49 and 51-55 were rejected under 35 U.S.C. § 102(e) as being anticipated by Acres '483 ("Acres"). Claim 29 was rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Liverance. Claims 30, 31 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Liverance in view of Acres. Claims 47 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Acres. Claim 48 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Acres in view of Liverance. Claims 27 and 28 have been cancelled.

The Applicant respectfully submits that the remaining claims, as amended, are patentable over Liverance and Acres, taken individually or in combination.

a. Interview

The Applicant and the Applicant's representative appreciate the interview afforded by Examiners Sager and Capron on September 10, 2002. During that interview, the Applicant discussed the amended claims and explained the patentable differences between the claims and the cited references. Examiner Sager requested the Applicant to formally provide the arguments for patentability in writing and to also address another reference of record (U.S. Patent No. 6,068,552 to Walker et al.) recalled by Examiner Sager in the Interview. These arguments and Walker are presented below.

b. Claims 26 and 29-39

Claims 26 and 29-39 were rejected over Liverance alone or in view of Acres. Independent claim 26 (from which claims 29-39 depend) requires that *the game artwork for a wagering game is altered primarily in response to monitored real time being a predetermined time*. Specifically, claim 26 recites in part: (1) a memory device coupled to a processor and storing at least two data sets for producing at least two different types of game artwork, and (2) the processor selecting one of the data sets primarily in response to the processor monitoring a clock's time signal corresponding to a predetermined time.

In contrast, Liverance does not alter game artwork for a wagering game primarily in response to monitored real time being a predetermined time. Liverance discloses several embodiments, each of which is addressed below.

In a slot machine embodiment, Liverance *alters or selects a reward* that most closely matches incentive requirements of a player as determined by such parameters as score (i.e., how

well the player is doing), response time (i.e., time between handle pulls), time of day, and calendar time. Column 4, lines 45-50; column 18, lines 11-18. First, *Liverance does not alter game artwork*. In fact, Liverance does not contemplate alteration of the game artwork. Liverance states that its invention can be applied to both mechanical and video slot machines. Column 7, lines 30-41. If Liverance were to alter game artwork, Liverance could not be applied to mechanical slot machines. This would be inconsistent with Liverance's stated objective of applying its invention to both mechanical and video slot machines. Second, *Liverance does not make alterations primarily based on real time*. Time is not a primary factor but, rather, is just one of several factors used to alter Liverance's slot game.

In an arcade game embodiment, both response time and time of day are used in *changing the difficulty or operating level* of the game. Column 25, lines 59-61. The illustrated arcade game is a target shooting game having a mechanical wheel. The wheel supports targets to be shot by a player holding a gun. Column 22, lines 12-30. Determination of the response time required by a player to actuate an electronic trigger and/or the score of the player can be used to determine reward and to change the speed at which the game operates in order to optimize the challenge. Column 2, lines 18-22. Again, *Liverance does not alter game artwork* and *does not make alterations primarily based on real time*. Also, *Liverance's arcade game is not a wagering game*.

In an education game embodiment, Liverance *alters the difficulty of questions* based on such parameters as accuracy in answering prior questions, response time in answering questions, and the time of day during testing. Column 31, lines 1-8 and 30-48. *Liverance does not alter game artwork* and *does not make alterations primarily based on real time*. Also, *Liverance's education game is not a wagering game*.

It would not have been obvious to modify Liverance (in view of Acres or other prior art) so as to alter game artwork for a wagering game primarily in response to monitored real time being a predetermined time. To begin with, Acres only makes passing reference to altering game appearance and says nothing whatsoever about altering *game artwork*. It is doubtful that Acres intended to alter game artwork for the reasons discussed below in connection with claims 46-55.

Furthermore, the primary object of Liverance is to sustain the interest of a player by automatically and continually monitoring his or her behavior and by carefully modifying machine operation to maintain conditions that the player considers desirable to continue to operate the game. Column 6, lines 9-15. Thus, Liverance is concerned about maintaining the incentive of a player to continue to operate the machine during a particular game session. Modification of Liverance to alter game artwork primarily based on real time would do little to advance Liverance's objective. The present invention is concerned with increasing the life span or longevity of a wagering game on a casino floor over the long run. Unlike Liverance, the player's experience during a particular game session is of less interest.

c. Claims 46-55

Claims 46-55 were rejected over Acres alone or in view of Liverance. Independent claim 46 (from which claims 47-55 depend) requires that *the game artwork for a wagering game is automatically altered to have a different theme, indicative of a commonly known societal event, in response to monitored real time being a predetermined time*. Specifically, claim 46 recites in part: (1) displaying standard game artwork for a wagering game having a first theme, (2) monitoring real time, and (3) automatically displaying modified game artwork in response to the real time being a predetermined time, the modified game artwork have a second theme

different from the first theme, the second theme being indicative of a commonly known societal event that is associated with said predetermined time.

In contrast, Acres does not automatically alter game artwork to a different theme in response to monitored real time being a predetermined time. Acres discloses electronic gaming machines interconnected by a computer network. The behavior of each machine may be controlled by configuring such parameters as game speed, payback percentage, or “game appearance.” Abstract. As the machines are played, any of these parameters may be changed responsive to commands issued over the network. Abstract. The commands are issued in response to predetermined changes in variables, such as rate of play, player status, and the time of the day, week, or month. Abstract.

Although Acres briefly mentions the possibility of altering “game appearance” based on time, *Acres says nothing whatsoever about altering thematic game artwork* as required by the claims. It is doubtful that Acres intended to alter thematic game artwork. In Acres, a central host computer may issue a reconfiguration command to a gaming machine to configure such parameters as game speed, payback percentage, or “game appearance.” Abstract; column 3, lines 15-33. On the one hand, parameters such as game speed and payback percentage are somewhat common or standardized across different gaming machines and, therefore, would be easier to configure with a reconfiguration command issued by Acres’ remote host computer. On the other hand, thematic game artwork varies from machine to machine and, therefore, would be difficult to properly configure with a reconfiguration command issued by Acres’ remote host computer. Acres fails to disclose that its host computer stores data indicating the thematic game artwork used by the gaming machines on the network. Without such data, it would be impractical for Acres’ host computer to configure thematic game artwork because the host

computer would not know how the thematic game artwork is being configured, especially if the artwork is altered to a different theme in accordance with the present invention.

Acre's disclosure of configuring "game appearance" must, therefore, be limited to generic appearance items, such as background color and pay schedules, which are not associated with a particular theme. In order for Acres to configure thematic game artwork, as in the present invention, the host computer would need to acquire data indicating the possible thematic game artwork that can be used by each gaming machine. Nowhere does Acres disclose or suggest such acquisition of data and, given the variety of gaming machines from different machine manufacturers on a typical casino floor, such acquisition of data is believed to be unfeasible.

d. Walker (U.S. Patent No. 6,068,552)

Walker discloses a slot machine that *allows a player to modify* at least one parameter of the slot machine. The player accesses the modifiable parameters through a player customization menu. Column 4, lines 49-54. Some modifiable parameters include payout, probability, and wager amount. Column 4, lines 54-64; FIG. 3. Alternative embodiment *allows the player to modify* other parameters, such as how a jackpot will be awarded (column 10, lines 22-31), number of reels (column 10, lines 32-42), and symbols on the reels (column 10, lines 52-65). *The player can choose* how many of a certain symbol appear on a given reel or what symbols make up a winning outcome. Column 10, lines 53-56. The menus that allow customization are provided by software, referred to as a player input module. Column 6, lines 22-24. The player input module receives a modification to one or more game parameters through menus *and player interaction with the slot machine*. Column 6, lines 24-27.

The Applicant respectfully submits that Walker is irrelevant to the claimed invention. Walker allows a player to customize a slot machine. In contrast, the claimed invention

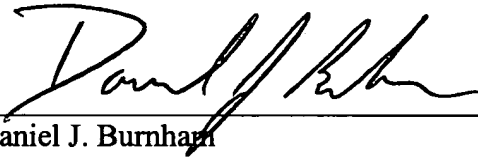
automatically alters game artwork *primarily in response to monitored real time being a predetermined time*. The alterations are automatically triggered by time, not a player. This represents a fundamental difference between the claimed invention and Walker.

Conclusion

It is the Applicant's belief that the claims are now in condition for allowance, and action towards that end is respectfully requested.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

Respectfully submitted,



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